

Regular Council Meeting—May 12, 2015

The meeting of the Council of the Town of Altavista was held in the Council Chambers of the J.R. Burgess Municipal Building, 510 Seventh Street on May 12, 2015 at 7:00 p.m.

1. Mayor Mattox called the meeting to order and presided.
2. Pastor David Bayse, Altavista Ministerial Association, gave the invocation.

Council members
present:

Mayor Michael Mattox
Mrs. Micki Brumfield
Mrs. Beverley Dalton
Mr. Charles Edwards
Mr. Tracy Emerson
Mr. Timothy George
Mr. Jay Higginbotham

Mrs. Brumfield arrived at 7:05 p.m.

Also present:

Mr. J. Waverly Coggsdale, III, Town Manager
Mr. Daniel Witt, Assistant Town Manager
Mrs. Tobie Shelton, Finance Director
Captain Barry Stocks, Police Department
Mr. David Garrett, Public Works/Utilities Director
Mr. Steve Bond, Wastewater Treatment Director
Mr. John Eller, Town Attorney
Mrs. Mary Hall, Administration

3. Mayor Mattox asked if there were any questions regarding the agenda.

A motion was made by Mrs. Dalton, seconded by Mr. Emerson, to approve the agenda.

Motion carried:

VOTE:	Mr. Michael Mattox	Yes
	Mrs. Beverley Dalton	Yes
	Mr. Charles Edwards	Yes
	Mr. Tracy Emerson	Yes
	Mr. Timothy George	Yes
	Mr. Jay Higginbotham	Yes

4. Recognitions and Presentations

a. Employee Milestones

i. Jo Ann Myers – 15 years of service (May 1st)

b. 2014-15 VHSL Basketball State Champs – Altavista High School

Mayor Mattox asked that Mr. Coggsdale draft a resolution for the Altavista High School 2014-2015 VHSL Basketball State champs.

A motion was made by Mr. George, seconded by Mr. Edwards, to authorize Mr. Coggsdale to draft a resolution for the Altavista High School 2014-2015 VHSL Basketball State champs.

Motion carried:

VOTE:	Mr. Michael Mattox	Yes
	Mrs. Beverley Dalton	Yes
	Mr. Charles Edwards	Yes
	Mr. Tracy Emerson	Yes
	Mr. Timothy George	Yes
	Mr. Jay Higginbotham	Yes

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5. Public Comment

Ms. Harriet Hardy, 1617 Melinda Drive, stated she had asked for help in identifying where Melinda Drive comes into Ogden and this has been done. She thanked Council.

Mrs. Linda Miller, Miller's Jewelry 520 Main Street, expressed concern that there was no longer a Police Committee as before. She asked where she needs to go to direct questions, concerns about the operation of the Police Department. She asked if the personnel issues were handled by one person instead of a committee. She felt her father (who has dementia) was safe along with her store before these changes. Mrs. Miller felt the police knew her, her family and her business.

Mayor Mattox advised Mrs. Miller to call 9-1-1 in an emergency. He advised if there was a problem with any officer or town employee, for her to contact the Town Manager. If she did not receive satisfaction from the town manager, contact him. If satisfaction is not received from either, he suggested that she attend the work sessions that are scheduled on the fourth Tuesday of each month.

Mrs. Miller stated she didn't have a complaint of sorts but wanted to know who to go to.

6. Consent Agenda

a) Minutes- Budget Work Session April 14th; Regular Meeting April 14th ; Work Session April 28th

b) Monthly Finance Reports

- i. Invoices
- ii. Revenues & Expenditures Report
- iii. Reserve Balance/Investment Report

c) Departmental Reports

A motion was made by Mrs. Dalton, seconded by Mr. George, to approve the items as listed on the consent agenda.

Motion carried:

VOTE:	Mr. Michael Mattox	Yes
	Mrs. Micki Brumfield	Yes
	Mrs. Beverley Dalton	Yes
	Mr. Charles Edwards	Yes
	Mr. Tracy Emerson	Yes
	Mr. Timothy George	Yes
	Mr. Jay Higginbotham	Yes

7. Public Hearings

a. FY2016 Budget and FY2016-2020 Capital Improvement Program

Mayor Mattox opened the public hearing at 7:07 p.m.

Mr. Coggsdale advised tonight would be an opportunity for the public to express their thoughts on the proposed FY2016 Budget and the FY2016-2020 Capital Improvement Program (CIP). He advised following tonight's public hearing, Town Council will have an opportunity to consider the comments before considering final adoption of the budget noting these items can be added to the May 26th Town Council Work Session. Mr. Coggsdale added staff will be seeking adoption of the FY2016 Budget and the FY2016-2020 Capital Improvement Program (CIP) at the regular Town Council meeting in June.

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Mr. Coggsdale gave the following overview:

The General Fund Revenue is estimated at:	<u>\$4,391,370</u>
The Enterprise Fund Revenue is estimated at:	<u>\$2,954,900</u>
The Highway Maintenance Fund Revenue is estimated at:	<u>\$ 619,000</u>
The Cemetery Fund Revenue is estimated at:	<u>\$ 28,000</u>

The Proposed Operating Expenditures, for all funds, are \$7,993,270 with \$471,100 being transferred to the General Fund Reserves; and \$147,260 being transferred to the Enterprise Fund Reserves.

There is no proposed tax increase to any of the Town's tax rates.

The PPTRA relief is estimated to be 65%.

There is a proposed 5% increase to Utility Rates (Water & Sewer) included in the proposed FY2016 Budget.

The Capital Improvement Program (CIP) for FY2016-2020 totals \$5,044,400; the FY2016 Capital Improvement Program items/projects represent \$1,172,700 of the total and are included in the FY2016 Budget.

Mr. Coggsdale noted following the public hearing, Council may direct staff to make changes to the Budget and/or CIP or refer discussion to the May Town Council Work Session.

Mayor Mattox asked if anyone would like to comment on the proposed FY2016 Budget and FY2016-2020 Capital Improvement Program. No one came forward.

Mayor Mattox closed the public hearing at 7:10 p.m.

Mr. Higginbotham asked the difference in the proposed budget and the FY2015 budget.

Mrs. Shelton responded it was an increase of 8%.

Mr. Coggsdale noted some of this was debt service and CIP.

8. New/Unfinished Business

a. DRO/Section 86-424-1 Ordinance Amendment

Mr. Coggsdale advised at Council's April 14, 2015 meeting, the Planning Commission's recommendation in regard to adoption of the changes proposed to Section 86-242-1 were presented. These items relate to text ordinance amendments for the Downtown Revitalization Overlay (DRO) District, as well as ancillary design guidelines. This item was tabled until the May 12, 2015 Council meeting. The text amendment would amend *Section 86-424-1 Architectural treatment; Voluntary Design Assistance* to the Downtown Revitalization Overlay (DRO) District section of the Town's Zoning Ordinance as follows:

The Town of Altavista Downtown Revitalization Overlay District Design Guidelines is available to assist in the maintenance, restoration, and rehabilitation of exterior architectural features. While not required, voluntary application of the methods and principles put forth in that document are recommended and encouraged.

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Mr. Higginbotham questioned if a copy had been sent out to the merchants.

Mr. Coggsdale advised copies were made for Council and the document is available for review on the town’s website as well as a hard copy in the town hall lobby.

Mr. Edwards suggested this item be tabled until the June Council meeting giving merchants time to review the revised guidelines.

A motion was made by Mr. Edwards, seconded by Mr. Higginbotham, to table the adoption of the DRO/Section 86-424-1 Ordinance amendment until the June Council meeting.

Motion carried:

VOTE:	Mr. Michael Mattox	Yes
	Mrs. Micki Brumfield	Yes
	Mrs. Beverley Dalton	Yes
	Mr. Charles Edwards	Yes
	Mr. Tracy Emerson	Yes
	Mr. Timothy George	Yes
	Mr. Jay Higginbotham	Yes

Mayor Mattox asked that this be advertised making the public aware and that it be placed on the June Council meeting agenda.

b. DHCD Telecommunications Grant

Mr. Jarvis advised he had submitted to Council a memo outlining a planning assistance grant for telecommunications (broadband) that the Department of Housing and Community Development is providing. There will be 8 awards totaling up to \$75,000. Mr. Jarvis noted a letter of intent is being developed and will be submitted by Friday, May 22, 2015. He advised of a public meeting scheduled for May 13, 2015 to discuss the needs of the citizens. If the grant is awarded to the town, the community will be able to develop:

- An assessment of the current broadband availability and usage in Altavista
- Address demand aggregation and potential future use
- Address the relationship with regional planning and telecommunication networks
- Address community development applications
- And the design of a community broadband system

A motion was made by Mr. George, seconded by Mr. Emerson, that staff proceeds with submittal of a “letter of interest” on the Town’s behalf for the Virginia Telecommunication Planning Initiative (VATPI).

Motion carried:

VOTE:	Mr. Michael Mattox	Yes
	Mrs. Micki Brumfield	Yes
	Mrs. Beverley Dalton	Yes
	Mr. Charles Edwards	Yes
	Mr. Tracy Emerson	Yes
	Mr. Timothy George	Yes
	Mr. Jay Higginbotham	Yes

c. Consideration of Reimbursement Resolution for Project 1B “Main Street Waterline Replacement” and Melinda Tank High Pressure Zone Project

Mr. Coggsdale advised previously Council approved staff to move forward with design work related to two utility related construction projects: Project 1B “Main Street Waterline Replacement” and the Melinda Tank High Pressure Zone Project. The Main Street Waterline Project is ready to be advertised for receipt of bids. He

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presented Council with a schedule for this project. He added while the source of funding for these two projects has not been decided, it would be advantageous for Council to adopt the “Reimbursement Resolution”. The current figure in the resolution is \$2.5 million and any expenses that were incurred within sixty (60) days before the adoption of the resolution are eligible for reimbursement. Mr. Coggsdale noted at this time projected expenses eligible would be:

• Project 1B – “Main Street Waterline”	\$1,912,000
• Melinda Tank High Pressure Zone Project	<u>\$ 633,000</u>
Total:	\$2,545,000

Mr. Coggsdale mentioned Council may desire to raise the Reimbursement Resolution amount from \$2.5 million to allow for full reimbursement of the projected cost of both projects.

A motion was made by Mrs. Dalton, seconded by Mr. Edwards, to adopt the “Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing” and to raise amount to \$2.6 million.

Motion carried:

VOTE:	Mr. Michael Mattox	Yes
	Mrs. Micki Brumfield	Yes
	Mrs. Beverley Dalton	Yes
	Mr. Charles Edwards	Yes
	Mr. Tracy Emerson	Yes
	Mr. Timothy George	Yes
	Mr. Jay Higginbotham	Yes

EXPENDITURES WITH PROCEEDS OF A BORROWING

WHEREAS, the Town of Altavista, Virginia (the "Borrower"), intends to acquire, construct and equip improvements to its water systems, including but not limited to, replacement of certain water lines and replacement of pumps, meters and filters (collectively, the "Project"); and

WHEREAS, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the "Expenditures") prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both;

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF ALTAVISTA, VIRGINIA:

1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the "Bonds") or to incur other debt, in an amount not currently expected to exceed **\$2.5 million** to pay the costs of the Project.

2. The Borrower intends that the proceeds of the Bonds be used to reimburse the Borrower for Expenditures with respect to the Project made on or after the date that is no more than 60 days prior to the date of this Resolution. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds or other debt.

3. Each Expenditure was or will be, unless otherwise approved by bond counsel, either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Borrower so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Borrower.

4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Borrower recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction of at least five years.

5. The Borrower intends that the adoption of this resolution confirms the "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.

6. This resolution shall take effect immediately upon its passage.

Adopted May 12, 2015

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9. Reports

a. Town Manager's Report

Bedford Avenue Waterline Project (Project 1A)

- Waterline installation is mostly complete.
- Sidewalks are being installed
- Monthly Construction Meeting Notes are attached.
- Substantial Completion Date: July 24, 2015 Final Completion Date: August 25, 2015

WWTP EOP – PCB Remediation

- Institute of Advanced Learning & Research Workshop to be held June 17th & 18th (Danville and Altavista). Flyer attached.
- Working with Dr. Scott Lowman (IALR) regarding implementation of his research.
- Received a response from VA DEQ.
- Numerous phone calls/emails have gone unanswered from Scott Rice, EPA Region III.
- Abatement of turtles from EOP continues.

Mr. Coggsdale noted Dr. Lowman would be plotting the results on the map.

Mr. Higginbotham mentioned he would like to see this map.

Mr. Coggsdale referred to a letter he has received from Ms. Jutta Schneider, Acting Director, Office of Remediation Programs, Department of Environmental Quality dated May 7, 2015. Ms. Schneider advised in her letter the department intends to initiate actions to terminate the WWTP Emergency Overflow Pond PCB Remediation from the Voluntary Remediation Program based on failure to make reasonable progress towards completion. She advised in this letter the town is entitled to an informal fact finding proceeding under §2.2-4019 of the Code of Virginia prior to a final decision by the DEQ to terminate participation in the VRP. Mr. Coggsdale asked Council if they wanted to sign the VRP Termination Agreement Form or move forward with the informal fact finding proceedings.

Mayor Mattox asked Mr. Coggsdale to read the email from Mr. Meade Anderson, Department of Environmental Quality.

Waverly,

The question of capping was not addressed in our previous letter because it did not relate to the question of adequate progress under the VRP regulations. In addition, the Town's letter did not provide enough information to definitively answer the questions related to capping. Some general comments for your consideration are provided below:

- DEQ has previously approved traditional low-permeability caps as a presumptive remedy for PCB-contaminated areas under the VRP, and such a cap might be a suitable alternative to the approved remedial action plan. Living caps present more uncertainty and would not be acceptable as an alternative design.
- If the Town were to pursue the traditional low-permeability cap, a revised remedial action plan, including cap design and an accelerated construction schedule, would need to be submitted expeditiously by the Town. The plan would need to be evaluated for conformance with the VRP requirements which would include coordination with our TMDL program.
- The evaluation may require additional data collection including groundwater monitoring and/or soil sampling. If all VRP requirements can be met, a Certificate of Satisfactory Completion of Remediation could be issued which constitutes "immunity to an enforcement action under the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 13 (§ 10.1-1300 et seq.) of this title, or any other applicable law." Please note that any cleanup can represent some future liability potential, especially if material is left in place. However, a properly engineered cap would greatly reduce these potential liabilities.

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I hope this responds to your questions.

Regards,

meade

J. Meade R. Anderson, CPG
Brownfields Program Manager
Virginia Department of Environmental Quality
629 East Main Street
Richmond, Virginia 23219
804-698-4179

Mr. Eller advised Council of the meaning of the §2.2-4019 of the Code of Virginia.

2.2-4019. Informal fact finding proceedings.

A. Agencies shall ascertain the fact basis for their decisions of cases through informal conference or consultation proceedings unless the named party and the agency consent to waive such a conference or proceeding to go directly to a formal hearing. Such conference-consultation procedures shall include rights of parties to the case to (i) have reasonable notice thereof, (ii) appear in person or by counsel or other qualified representative before the agency or its subordinates, or before a hearing officer for the informal presentation of factual data, argument, or proof in connection with any case, (iii) have notice of any contrary fact basis or information in the possession of the agency that can be relied upon in making an adverse decision, (iv) receive a prompt decision of any application for a license, benefit, or renewal thereof, and (v) be informed, briefly and generally in writing, of the factual or procedural basis for an adverse decision in any case.

B. Agencies may, in their case decisions, rely upon public data, documents or information only when the agencies have provided all parties with advance notice of an intent to consider such public data, documents or information. This requirement shall not apply to an agency's reliance on case law and administrative precedent.

Mr. Eller stated if the town wants to move forward with the informal fact finding proceeding then they would have the opportunity to present findings to a hearing officer and then get notice of any negative decision and any other facts that the agency has contrary to the town's facts.

Mr. George asked what the downsides were to not being in the VRP.

Mr. Eller stated the town has always wanted to get a letter of closure but things have changed since the town went into the VRP. Mr. Eller advised the VRP is a delegation by the EPA under the federal environmental laws to let the DEQ oversee programs by localities to do the remediation themselves. If the town is removed from the VRP, then they are under the power of the EPA. He stated being removed from the VRP by the EPA is not as concerning as it was.

Mr. Edwards mentioned a letter from Mr. Scott Rice that says the EPA doesn't have jurisdiction over the town.

Mr. Eller stated this may be under TOSCA which was approximately 6 years ago noting Mr. Rice is interested in this program.

Mayor Mattox noted Mr. Rice has not returned a phone call or email in the past two months.

Mr. Coggsdale noted he continues to contact Mr. Rice because he has been the town's source.

Mayor Mattox stated before the town could obtain closure with the capping of the pond; now there is the possibility of being kicked out of the VRP and losing the benefits of getting the letter of closure. He felt the citizens of Altavista are looking for closure. Mayor Mattox stated he would not like to drop out of the VRP until made to do so.

Mr. Higginbotham noted 17% of the pond has been analyzed with one hot spot in Plot 7; Plot 8 has not been diked off yet. He felt it would be a big step forward to show what has been done.

Mr. Eller noted the informal fact finding proceedings would be a hearing in person.

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Mr. Emerson stated he still, after three years, has no direction on PCBs. He thought the letter would bring some guidance but he still has no ideas.

Mr. George asked if it would be prudent or premature to get a price to cap and seal the pond. He felt this information should be available in case it has to be done. Mr. George mentioned the comment about the “perfect petri dish” and if the PCBs are not going anywhere, capping and sealing doesn’t seem to be a bad alternative.

Mr. Coggsdale mentioned Mr. Anderson, in his response, if the town wishes to pursue this capping option “a revised remedial action plan including cap design and an accelerated construction schedule would need to be submitted expeditiously” and asked Council to keep this in mind when having the capping discussion.

Mr. Higginbotham explained the sludge is soupy and can’t just be put on one half. A dike has to be built and the water is a problem with capping. Once it is capped, the emergency overflow pond is lost; noting the only way to remove the water is by evaporation.

Mrs. Brumfield stated science takes time and she supports what has been done thus far. She feels Council has done a tremendous job trying to save the tax payers’ dollars with the different projects. She stated at this point she was not for covering the pond up, passing the problem on to someone else and worrying if it will leak or not.

Mayor Mattox asked if Council wants to request the fact finding proceedings.

Mr. Coggsdale asked how Council wanted to respond to Ms. Schneider letter.

Mr. Higginbotham stated there has to be a response to the letter pointing out where progress has been made.

Mr. Coggsdale stated this information will be presented at the fact finding hearing.

Mr. Higginbotham stated the stage has to be set to get there.

Mr. Eller replied this has been done and now is the time for the oral hearing.

Mayor Mattox suggested the letter be replied to asking for a date for the fact finding proceedings after June 20, 2015.

It was consensus of Council to move forward with the informal fact finding proceedings.

10. Informational Items/Late Arriving Matters

11. Matters from Town Council

Mr. Edwards addressed Council in regards to economic development. He stated he feels the only way to encourage retail is by bringing in more payroll. Mr. Edwards also presented some pictures of derelict housing along with empty storefronts. Mr. Edwards stated his point is if there is enough industrial activity it would put pressure on the homeowners to want to fix their houses up to rent or sell; he felt the same exists with the retail community. He stated the town has spent millions on streetscapes, new facades, support of AOT and the town’s revenue from down town retailers continues to fall. Mr. Edwards felt if the Town of Altavista appears the same as other communities vying for new industry we can’t expect to win unless appearing unique to those in search of a location. He felt Altavista was unique in view of the YMCA, the parks, and low utility rates and felt this information needs to be made known. He asked that the Altavista Economic Development Authority, the Town Council and Town staff support the industrial development efforts to the extent that every month they review what has been accomplished and receive details about the plans for the coming month.

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12. Closed Session

I move that the Altavista Town Council convene in closed session in accordance with the provisions set out in the *Code of Virginia*, 1950 as amended, for the following purpose:

Section 2.2-3711 (A)(3)- discussion or consideration of disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Section 2.2-3711 (A)(5)-discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business’ or industry’s interest in locating or expanding its facilities in the community.

A motion was made by Mrs. Dalton, and seconded by Mr. Edwards.

Motion carried:		
VOTE:	Mr. Michael Mattox	Yes
	Mrs. Micki Brumfield	Yes
	Mrs. Beverley Dalton	Yes
	Mr. Charles Edwards	Yes
	Mr. Tracy Emerson	Yes
	Mr. Timothy George	Yes
	Mr. Jay Higginbotham	Yes

Council went into closed session at 8:10 P.M.
Notice was given that council was back in regular session 9:00 P.M.

FOLLOWING CLOSED SESSION:

A motion was made by Mrs. Dalton, seconded by Mr. Edwards, to adopt the certification of a closed meeting.

CERTIFICATION OF CLOSED MEETING

WHEREAS, the town council has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the town council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the town council hereby certifies that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the town council.

Motion carried:		
VOTE:	Mr. Michael Mattox	Yes
	Mrs. Micki Brumfield	Yes
	Mrs. Beverley Dalton	Yes
	Mr. Charles Edwards	Yes
	Mr. Tracy Emerson	Yes
	Mr. Timothy George	Yes
	Mr. Jay Higginbotham	Yes

Mayor Mattox asked if there was anything else to bring before Council.

The meeting was adjourned at 9:02 p.m.

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Michael E. Mattox, Mayor

J. Waverly Coggsdale, III, Clerk